

Article 3. Application Process

§15120. Who can apply to be a Certified Unified Program Agency?

- (a) Counties must apply.
- (b) Cities or other local agencies which qualify pursuant to Health and Safety Code Section 25404.1(b)(2) may apply.
- (c) Two or more counties, cities or local agencies which propose to form a Joint Powers Agency may apply.
 - (1) Cities or other local agencies which have formed or propose to form a JPA may apply if one of the following is true:
 - (i) A maximum of two member agencies of the JPA have not implemented the Business Plan program or the Underground Storage Tank program prior to December 31, 1995 and at least one member agency has implemented the Business Plan program or the Underground Storage Tank program prior to December 31, 1995, or
 - (ii) The JPA has an agreement with the County to implement the Unified program in the JPA's jurisdiction, or
 - (iii) The county is a member agency of the JPA.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Section 25404.1(b), Health and Safety Code.

HISTORY

1. New article 3 and section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New article 3 and section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New article 3 and section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New article 3 and section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including new subsections (c)(1)-(c)(1)(iii) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

§15130. What are the application notices and deadlines?

- (a) A non-county agency which intends to apply for certification as a CUPA shall file with the Secretary and the county within which the city or other local agency is located, a letter which expresses the applicant's intent to apply. This "intent to apply" letter shall be valid if mailed to: Unified Program Certification, c/o: Department of Toxic Substances Control, P.O. Box 806, Sacramento, California, 95812-0806 by December 31, 1994.

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(1) Failure to file an intent to apply letter shall not serve as grounds for the Secretary to reject an application.

(b) Any request by a non-county agency to the Secretary for approval to apply for certification pursuant to Health and Safety Code Section 25404.1(b)(2)(B) shall be submitted in writing.

(1) In its request, the applicant shall specify the date on which it received the county's reasons for failing to enter into an agreement. Any relevant correspondence to or from the county shall be attached to the request.

(2) The Secretary shall respond within 45 days of receiving the request.

(c) A city or other local agency which intends to act as a participating agency shall notify the county in which it is located of this intent, no later than December 31, 1994.

(1) Failure of a city or other local agency that qualifies pursuant to Section 25404.1(b)(4) to provide this notification shall not serve as grounds for a county to refuse to include the city or other local agency as a participating agency in an application for certification.

(d) Each county shall and each city or other local agency within the county which qualifies pursuant to Health and Safety Code, Section 25404.1(b)(2) and chooses to apply, shall apply for certification on or before January 1, 1996.

(e) Two or more counties, cities, or other local agencies which have formed or propose to form a Joint Powers Agency may apply jointly for certification on or before January 1, 1996.

(f) A city which incorporates after January 1, 1996 may apply for certification as a CUPA pursuant to Health and Safety Code, Section 25404.1(b)(2)(B) and section 15130(b) above. Any request to the Secretary for approval to apply for certification shall be submitted within 180 days of incorporation.

(g) Applications shall be valid if they meet the requirements of this article and one copy is mailed to: Unified Program Certification, c/o: Department of Toxic Substances Control, P.O. Box 806, Sacramento, CA 95812-0806.

Authority cited: Sections 25204(b) and 25404.6(c), Health and Safety Code. Reference: Section 25404.1(b), Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.

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4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day

5. Certificate of compliance as to 11-14-94 order including amendment of subsections (a)(1), (b)(1) and (d)-(g) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

§15140. Must proposed participating agencies enter into final agreements with the applicant agency before the application is submitted?

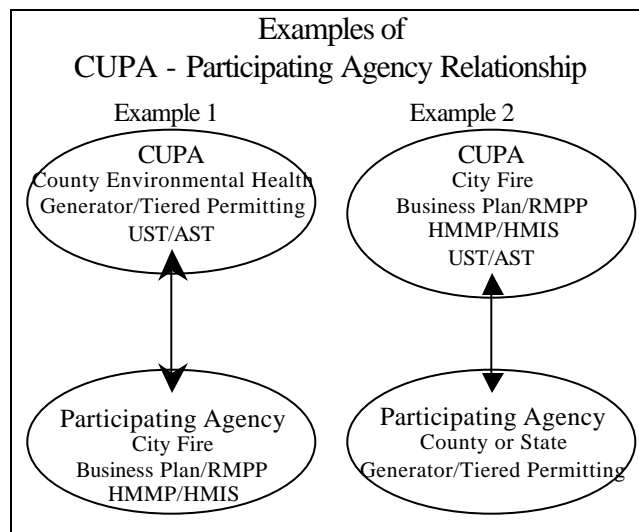
(a) The application for certification shall include an Agreements Section [refer to Section 15150(d)]. The Agreements Section shall include draft or final agreements between the applicant agency and all proposed participating agencies. Final copies of all agreements must be submitted to the Secretary prior to certification.

(1) If an applicant agency proposes that any agency other than itself implement any aspect of the single fee system including the surcharge, the applicant agency shall maintain a written agreement specifying responsibilities.

(A) The written agreement shall identify responsibility for absorbing funds lost to non-payment of fees.

(B) The written agreement shall identify under what conditions and authority fees will be waived.

Figure 2



Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. References: Section 25404.3(d), Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.

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2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsection (a) and Note and new Figure 2 designator transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

§15150. What information must be provided in an application?

- (a) Identify which agency will be the point of contact within the CUPA.
 - (1) An applicant agency shall designate only one administrative body, such as an internal department or office within a county or city, within that jurisdiction as the point of contact for Unified Program implementation.
 - (2) The governing body of the applicant agency may designate itself as the point of contact by not specifying any other.
 - (3) The applicant agency shall provide the name, address, phone number, and facsimile number of the contact (use Appendix A).
- (b) The application for certification as a CUPA shall be signed by at least one elected or appointed official who is authorized to represent the jurisdiction.
- (c) The application for certification shall include an Authorizations Section including a list and brief description of all ordinances and resolutions used in the Unified Program.
 - (1) If overlapping authority will arise pursuant to certification under this Division, the applicant agency shall include in the application, a discussion of how jurisdictional authority will be managed to ensure that health and safety are maintained within the jurisdiction.
 - (2) Copies of all underground storage tank ordinances required by Health and Safety Code, Chapter 6.7 must be provided.
- (d) The application for certification shall include an Agreements Section including copies of all agreements or draft agreements between the applicant agency and proposed participating agencies [refer to Section 15140].
- (e) The application for certification will be constructed in sections so as to meet the requirements of and the structure of Appendix A and shall include the following:
 - (1) A cover sheet which shall be Appendix A filled out with the appropriate information.
 - (2) For a county applicant, documentation that cities within the county either intend or do not intend to apply to be a CUPA. Documentation may take the form of a listing of all cities within the county with an indication of whether they intend to apply or not.
 - (3) A description of the geographic scope of the Unified Program.

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- (4) The number of regulated businesses within the jurisdiction, including: the total number of businesses regulated, the number of regulated underground tanks in the jurisdiction and the number of regulated businesses authorized under the permit-by-rule, conditionally authorized and conditionally exempt tiers of Tiered Permitting. Table 1 is to be used to provide this information unless otherwise agreed upon between the applicant agency and the Secretary.
- (5) The structure of the proposed Unified Program.
 - (A) The structure may be presented as an organizational chart of the Unified Program.
- (6) A Unified Program Implementation Plan.
 - (A) The implementation plan shall provide a description or implementation timeline which includes all phases from startup through full operation.
 - (B) The implementation plan will include specific information required for the Secretary's evaluation pursuant to Sections 15170, 15190, 15200, 15210, 15220 and 15230, 15240, 15250 as well as how the Unified Program will coordinate, consolidate, and make consistent the required program elements.
 - (C) The implementation plan shall identify the agreements which exist or are proposed between the applicant agency and all proposed participating agencies. Such agreements shall be included in the Agreements Section of the application for certification [refer to subsection (d) of this Section].
- (7) Adequate information to determine that responsible agencies meet expertise requirements specified in Sections 15260 and 15270.
 - (i) Table 2 and Table 4 may be used to provide this information.
 - (ii) If Table 2 and Table 4 are not used, the information required in the tables must be provided in some form.
- (8) Adequate information to determine that responsible agencies meet training requirements specified in Sections 15260 and 15270.
- (9) Certify that the administrative procedures of the proposed Unified Program will meet the requirements of Section 15180. Use Appendix B.
- (10) A Consolidated Permit plan which meets the requirements of Section 15190.
- (11) An Inspection and Enforcement Program plan which meets the requirements of Section 15200.
- (12) A Fee Accountability Program in compliance with Section 25404.5(c) of the Health and Safety Code and with Section 15210.
- (13) A Single Fee System Implementation Plan which meets the requirements of Sections 15210 and 15220.
- (14) A budget and funding mechanism for the Unified Program which meets the requirements of Section 15170(c), staff time allocations, and certification that adequate resources exist to carry out the Unified Program. Table 3 may be used to provide information on staff time allocations. Appendix B will be used to certify adequate resources exist.
- (15) A description of how the CUPA will fulfill reporting requirements and certification that it will meet requirements of Article 6 below. Use Tables 5 and 6 for information and Appendix B for certification.

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- (16) A summary of program implementation history which shall include the following information. Table 2 may be used to provide this information.
- (A) A list of the Unified Program elements that have been managed by the applicant agency and participating agencies for the past three years. This list shall include voluntarily consolidated programs.
 - (B) A summary of inspection and enforcement activities within the scope of the Unified Program, undertaken within the past three years, including the types and numbers of inspections conducted and enforcement actions handled.
- (17) A description of recordkeeping and costs accounting systems.
- (18) A description of responsible agency compliance with the criteria identified in the California Code of Regulations, Title 22, Section 66272.10 except subsections (b)(2) and (b)(3).
- (19) A description of any additional programs incorporated into the Unified Program.
- (20) An explanation of why the Secretary need not be concerned that certification of the applicant agency might lead to adverse impacts on the county.
- (21) A description of how certification of the proposed Unified Program will lead to less fragmentation between jurisdictions within the county.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(b), 25404.2, 25404.3(b), (c) and (d), and 25404.5, Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsection (a)(1), new subsection (a)(3), amendment of subsection (b), new subsection (c)(2), amendment of subsections (e)-(e)(2), (e)(4), (e)(6)(B), (e)(7)-(e)(10), (e)(12) and (e)(14)-(e)(16), repealer of subsection (e)(16)(B) and subsection relettering, and amendment of subsections (e)(18) and (e)(20) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).